

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Document # 41

ALI

USCA NO. _____

-v-

SDNY NO. 04cv7367

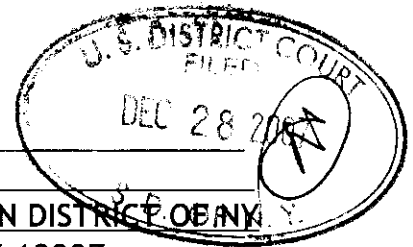
JUDGE: RJS

DATE: 12/28 / 2007

KELLY ET AL

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) Nezam D.
FIRM APPEALS SECTION
ADDRESS UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET, NEW YORK, NEW YORK 10007
PHONE NO. (212) 805-0636



DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS DOC#

Clerk's Certificate

See Attached List of Numbered Documents

Only Circled Documents Included

(☒) Original Record

(☐) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A
for the Second Circuit on the 28th Day of December, 2007.

**United States District Court for
the Southern District of New York**

ALI

-V-

KELLY ET AL

Date: 12/28/ 2007

U.S.C.A. # _____

U.S.D.C. # 04cv7367

D.C. JUDGE KMW

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 40, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

****BALANCE OF FILES MISSING AT THIS TIME**

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 28th Day of December In this year of our Lord, Two Thousand and Seven, and the Independence of the United States this 232nd year.

J. Michael McMahon, Clerk

By _____
Deputy Clerk

APPEAL, CLOSED, PRO-SE

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:04-cv-07367-RJS
Internal Use Only

Ali v. Kelly et al
Assigned to: Judge Richard J. Sullivan
Demand: \$9,999,000
Cause: 28:1331 Fed. Question: Other

Date Filed: 09/15/2004
Date Terminated: 11/29/2007
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Date Filed	#	Docket Text
09/15/2004	<u>1</u>	COMPLAINT against Jeffrey Acevedo, Michael L. Dannerker, Ray Kelly. (Filing Fee \$ 150.00, Receipt Number 519668) Document filed by Aminah Ali. (laq,) (Entered: 09/17/2004)
09/15/2004		SUMMONS ISSUED as to Jeffrey Acevedo, Michael L. Dannerker, Ray Kelly. (laq,) (Entered: 09/17/2004)
09/15/2004		Magistrate Judge Debra Freeman is so designated. (laq,) (Entered: 09/17/2004)
11/08/2004	<u>2</u>	SUMMONS RETURNED EXECUTED Summons and Complaint served. Ray Kelly served on 9/22/2004, answer due 10/12/2004. Service was made by Certified Mail. Document filed by Aminah Ali. (kw,) (Entered: 11/12/2004)
11/08/2004	<u>3</u>	SUMMONS RETURNED EXECUTED Summons and Complaint served. Jeffrey Acevedo served on 9/22/2004, answer due 10/12/2004. Service was made by Certified Mail. Document filed by Aminah Ali. (kw,) (Entered: 11/12/2004)
11/08/2004	<u>4</u>	SUMMONS RETURNED EXECUTED Summons and Complaint served. Michael L. Dannerker served on 9/22/2004, answer due 10/12/2004. Service was made by Certified Mail. Document filed by Aminah Ali. (kw,) (Entered: 11/12/2004)
11/16/2004	<u>5</u>	ENDORSED LETTER addressed to Judge Kenneth M. Karas from Mary O'Flynn dated 10/21/04 re: Defendants' request for an extension of time to answer the complaint until 12/21/04 is granted. No further extensions will be granted absent good cause. Defendants are directed to provide a copy of this memo endorsement to plaintiff. (Signed by Judge Kenneth M. Karas on 11/15/04) (sac,) (Entered: 11/18/2004)
11/16/2004		Set Answer Due Date purs. to <u>5</u> Endorsed Letter, as to Jeffrey Acevedo answer due on 12/21/2004; Michael L. Dannerker answer due on 12/21/2004; Ray Kelly answer due on 12/21/2004. (sac,) (Entered: 11/18/2004)
11/16/2004	<u>6</u>	APPLICATION for Default Judgment by Clerk against dft. Michael Dannecker, Police Officer ; along with delcaration in support. Document filed by Aminah Ali. (pl,) (Entered: 11/29/2004)
11/16/2004	<u>8</u>	MOTION for Default Judgment by Clerk as to dft. Ray Kelly, Commissioner under Rule 55(b)(1) of the F.R.C.P.; w/attach declaration in support. Document filed by Aminah Ali. (pl,) (Entered: 12/16/2004)
11/16/2004	<u>9</u>	MOTION for Default Judgment by Clerk as to dft. Jeffrey Acevedo, Police Sergeant under Rule 55(b)(1) of the F.R.C.P.; w/attach declaration in support.. Document filed by Aminah Ali. (pl,) (Entered: 12/16/2004)
12/13/2004	<u>7</u>	ORDER; the application for a Default Judgment is denied as premature. (Signed by Judge Kenneth M. Karas on 12/8/04) (sac,) (Entered: 12/15/2004)
02/09/2005	<u>10</u>	SCHEDULING ORDER: Status Conference set for 4/1/2005 12:15 PM before Judge Kenneth M. Karas. (Signed by Judge Kenneth M. Karas on 2/4/2005) Any request for adjournment must be made in writing at least two business days prior to the scheduled appearance. Adjournments will be granted only upon consent of all parties and upon good cause shown.(jsa,) (Entered: 02/10/2005)
03/11/2005	<u>11</u>	DOCKETING ERROR - POSTING A DOCKET ENTRY TO A NON-ECF CASE - NOTICE of Appearance by Anna Le Nguyen on behalf of Ray Kelly (Nguyen, Anna) Modified on 4/5/2005 (rag,). (Entered: 03/11/2005)
04/01/2005	<u>13</u>	DEMAND for Trial by Jury. Document filed by Aminah Ali(dle,) (Entered: 04/11/2005)
04/05/2005		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF CASE ERROR. Note to Attorney Nguyen, Anna to MANUALLY RE-FILE Document Notice of Appearance, Document No. 11. This case is not ECF. (rag,) (Entered: 04/05/2005)
04/05/2005	<u>12</u>	ORDER: defendants shall respond to the motion for a default judgment by 4/15/05. Plaintiff's reply, if any, is due 4/29/05. A conference is scheduled for 5/13/05, at 11:00 a.m. (Signed by Judge Kenneth M. Karas on 4/1/05) (kw,) (Entered: 04/07/2005)
04/06/2005	<u>14</u>	NOTICE of Appearance by Anna Le Nguyen on behalf of Ray Kelly (jp,) (Entered: 04/11/2005)

04/15/2005	<u>16</u>	MEMORANDUM OF LAW in Opposition To Plaintiff's Oral Motion for a Default Judgment...and In Support of Defendant's Motion for Dismissal... Document filed by Ray Kelly. (mde,) (Entered: 04/22/2005)
04/18/2005	15	TRANSCRIPT of proceedings held on 04/01/05 before Judge Kenneth M. Karas. (es,) (Entered: 04/18/2005)
04/18/2005	17	MEMORANDUM OF LAW in Opposition re: 8 MOTION for Default Judgment as to Kelly and in support of defendant's motion for dismissal of this action pursuant to the Court's 12/8/4 order. Document filed by Ray Kelly, Jeffrey Acevedo, Michael L. Dannkerker. (kw,) (Entered: 04/22/2005)
04/18/2005	<u>18</u>	MOTION for Recusal pursuant to 28 USC 144. Document filed by Aminah Ali. (kw,) (Entered: 04/22/2005)
05/03/2005	19	TRANSCRIPT of proceedings held on 04/01/05 before Judge Kenneth M. Karas. (es,) (Entered: 05/03/2005)
05/13/2005		Minute Entry for proceedings held before Judge Kenneth M. Karas : Motion Hearing held on 5/13/2005 re: <u>18</u> MOTION for Recusal filed by Aminah Ali. Case called for plaintiff's motion for recusal. Motion argument continued to May 26 at 11 am. (jco,) (Entered: 05/23/2005)
05/27/2005	<u>20</u>	ORDER denying <u>8</u> Motion for Default Judgment, denying <u>18</u> Motion for Recusal. Pursuant to Cheung V. Youth Orchestra Found. of Buffalo and other authority outline on the record Ms. Ali may not proceed in representing her son pro se. The court finds however that for the reasons stated on the record appointment of counsel on behalf of Amir Evans is appropriate. This court's pro se office is directed to seek the assignment of counsel to represent plaintiff Amir Evans in accordance with normal procedures. The demand for an application for a jury demand is held in abeyance pending the appointment of counsel. (Signed by Judge Kenneth M. Karas on 5/26/05) (dle,) (Entered: 05/31/2005)
07/13/2005	21	TRANSCRIPT of proceedings held on 5/13/05 before Judge Kenneth M. Karas. (lma,) (Entered: 07/13/2005)
08/11/2005	22	TRANSCRIPT of proceedings held on 05/26/05 before Judge Kenneth M. Karas. (es,) (Entered: 08/11/2005)
12/20/2005	<u>23</u>	ORDER: The Court has determined that it will be appropriate to appoint pro bono counsel on behalf of Amir Evans, a minor child in the above captioned case. Therefore the Court hereby appoints the law firm of Paul, Hastings, Janofsky and Walker LLP, located at 75 East 55th Street, New York, New York 10022-3205 (Signed by Judge Kenneth M. Karas on 12/13/05) (js,) (Entered: 12/21/2005)
02/06/2006	<u>24</u>	NOTICE OF APPEARANCE by Deborah Salzberg on behalf of Aminah Ali (dle,) (Entered: 02/07/2006)
04/18/2006	<u>25</u>	ORDER: Status Conference set for 4/26/2006 at 10:30 AM before Judge Kenneth M. Karas at the United States Courthouse, 500 Pearl Street, New York, New York in Courtroom 21D. (Signed by Judge Kenneth M. Karas on 4/12/2006) (lb,) (Entered: 04/19/2006)
04/28/2006	<u>26</u>	ORDER: plaintiff shall provide the Court with her current address by 5/18/06. The Clerk of the Court shall docket the attached envelope and a copy of the 4/12/06 Order. The conference scheduled for 4/26/06 is hereby cancelled. (Signed by Judge Kenneth M. Karas on 4/25/06) (db,) (Entered: 05/01/2006)
05/11/2006		Received returned mail re: <u>26</u> Order. Mail was addressed to Aminah Ali at 120 Columbia St. NYC, 10002 and was returned for the following reason(s): Insufficient Address. (rdz,) (Entered: 05/11/2006)
05/18/2006	<u>27</u>	NOTICE OF APPEARANCE of Brian P. Moran as counsel for Amir Evans, a minor child in this action. (jco,) (Entered: 05/22/2006)
05/24/2006	<u>28</u>	NOTICE OF APPEARANCE by Deborah Salzberg, Brian Pelle Moran, Alastair Wood on behalf of A.E. (db,) (Entered: 05/26/2006)
05/24/2006	<u>29</u>	PRO SE MEMORANDUM dated 5/24/06 re: CHANGE OF ADDRESS for Aminah Ali. New Address: c/o 120 columbia Street, Apt. 10-D, New York, NY, 10002. (dj,) (Entered: 05/31/2006)
08/15/2006	<u>30</u>	ORDER Status Conference set for 10/13/2006 at 10:30 AM before Judge Kenneth M. Karas in the United States Courthouse, 500 Pearl Street, New York, New York, Courtroom 21D. (Signed by Judge Kenneth M. Karas on 8/11/2006) (lb,) (Entered: 08/15/2006)
11/28/2006	<u>31</u>	ORDER that the conference previously scheduled for 11/29/06 is adjourned to 12/4/06 at 3:30 pm. (Signed by Judge Kenneth M. Karas on 11/27/06) (cd,) (Entered: 11/29/2006)
11/28/2006		Set/Reset Scheduling Order Deadlines: Pretrial Conference set for 12/4/2006 03:30 PM before Judge Kenneth M. Karas. (cd,) (Entered: 11/29/2006)
01/30/2007	<u>32</u>	ORDER: It is hereby ordered that the plaintiff Ms. Ali show cause before this Court on March 2, 2007 at 11:30 a.m. why this case should not be dismissed for failure to prosecute. (Signed by Judge Kenneth M. Karas on 1/24/07) (js) (Entered: 01/31/2007)
02/01/2007	<u>33</u>	NOTICE of Plaintiff's Notice to Court and Clerk to docket to file "Certified Clerks Of Defaults" against defendants, Plaintiff Seeks Lawful and Legal clarification of the Courts' jurisdiction, of "ORDER to Show Cause" against Plaintiffs. Document filed by Ms. Williams. (RECEIVED 07 Feb-1 PM 10:28 U.S.DISTRICT COURT S.D.N.Y.) (rag) (Entered: 03/02/2007)
03/13/2007	<u>34</u>	ORDER that for the reasons stated in this order and on the record at the March 2 2007 conference, plaintiff Aminah Ali's complaint is dismissed. the clerk of the court is ordered to terminate her as a plaintiff in this action. (Signed by Judge Kenneth M. Karas on 3/6/07) (dle) (Entered: 03/14/2007)

03/13/2007	<u>35</u>	ORDER that this case is transferred to the suspense docket of this court; the court will hold a conference on 10/5/07 at 10:00 a.m. in courtroom 21D, 500 Pearl Street to discuss the status of plaintiff Amir Evans' case. At that point, if choosing to be present at that conference or by informing the court that he is representing himself. If plaintiff Amir Evans' fails to appear at the 10/5/07 conference, the court will entertain a motion to dismiss form the dfts for failure to prosecute. (Signed by Judge Kenneth M. Karas on 3/6/07) (dle) (Entered: 03/14/2007)
03/13/2007		Set/Reset Hearings: Status Conference set for 10/5/2007 10:00 AM before Judge Kenneth M. Karas. (dle) (Entered: 03/14/2007)
03/13/2007	<u>36</u>	ORDER that for the reasons set forth in this order and on the record at the 3/2/07 conference, Brian Moran, Alistair Wood, Deborah Salzberg and the law firm Paul,Hastings, Janofsky & Walker are relieved as counsel to plaintiff Amir Evans. (Signed by Judge Kenneth M. Karas on 3/6/07) (dle) (Entered: 03/14/2007)
09/04/2007	<u>37</u>	NOTICE OF CASE REASSIGNMENT to Judge Richard J. Sullivan. Judge Kenneth M. Karas is no longer assigned to the case. (jmi) (Entered: 09/11/2007)
09/04/2007		Mailed notice to the attorney(s) of record. (jmi) (Entered: 09/11/2007)
10/26/2007	<u>38</u>	ORDER TO SHOW CAUSE: IT IS HEREBY ORDERED that the plaintiff Amir Evans shall is directed to submit a letter to the court, explaining why this case should not be dismissed for failure to prosecute. The letter is due within fourteen (14) days from the date of this Order. (Signed by Judge Richard J. Sullivan on 10/19/07) (tro) (Entered: 10/26/2007)
11/29/2007	<u>39</u>	ORDER OF DISMISSAL that the case is dismissed for failure to prosecute, pursuant to FRCP 41(b), without prejudice. The Clerk of Court is directed to close the case. (Signed by Judge Richard J. Sullivan on 11/27/07) (cd) (Entered: 12/03/2007)
12/20/2007	<u>40</u>	NOTICE OF APPEAL from <u>39</u> Order of Dismissal. Document filed by A.E. Copies of Notice of Appeal mailed to attorney(s) of record:New York City Law Depart. Office of the Corporation Counsel. (nd) (Entered: 12/27/2007)
12/20/2007		Appeal Remark as to <u>40</u> Notice of Appeal filed by A.E. \$455.00 APPEAL FILING FEE DUE. (nd) (Entered: 12/27/2007)
12/27/2007		Transmission of Notice of Appeal to the District Judge re: <u>40</u> Notice of Appeal. (nd) (Entered: 12/27/2007)
12/27/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>40</u> Notice of Appeal. (nd) (Entered: 12/27/2007)